

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No.: 10/827,465
Filing Date: April 19, 2004
Appellants: Terry L. Turner et al.
Group Art Unit: 3721
Examiner: Nathaniel C. Chukwurah
Title: POWER TOOL WITH BATTERY PACK EJECTOR
Attorney Docket: 0275MU-000510/COB

Mail Stop Reply Brief – Patents
Director of the U.S. Patent and Trademark Office
P.O. Box 1450
Alexandria, Virginia 22313-1450

REPLY BRIEF

Dear Sir:

In response to the Examiner's Answer dated February 5, 2009, please consider the following:

ARGUMENT

The Examiner continues to fail to provide explicit reasoning with a rationale underpinning as to why the Maeda et al. reference is combinable with the Mooty et al. reference as required under KSR.

The Examiner fails to appreciate that the Mooty et al. reference illustrates a release mechanism and not an ejecting mechanism. The difference between ejecting and release is monumental. Ejection forces the battery out or expels it from its place or

position. On the other hand, release frees the battery from a restraint. Mooty et al. illustrates a release mechanism with a locking finger (136) that is removed from the rails to enable manual withdrawal of the battery from the rails. As illustrated in column 8, lines 44-67 and column 9, lines 1-7, the locking finger is removed from blocking the battery on the rail so that the operator can utilize his hand to pull the battery from the power tool. In Maeda et al., the battery is ejected from the magnetic recording playback device only when the magnetic recording device senses that the battery output is below a desired level. When this occurs, the battery is ejected from the device (see column 10, lines 1-10).

The Examiner has failed to provide an explicit analysis as to how Maeda et al. is combinable with Mooty et al. Mooty et al. illustrates a release mechanism that includes a locking mechanism and a biasing spring. Both are positioned transverse to the axis of the battery. Additionally, the biasing spring is positioned below (or above) the battery pack and does not contact with the battery pack, as claimed. The Examiner has failed to explicitly explain how the Maeda et al. battery ejection mechanism, that only releases the battery after the battery voltage is below a certain level, is combinable with the Mooty et al. reference. The Examiner has failed to explain how the user can remove the battery and use it with another power tool. It is clear that the only way that the Examiner combines these two references is with the use of impermissible hindsight.

The Examiner's five paragraph explanation as to why the two references are combinable does not provide an explicit analysis with rationale underpinning as to why these two references should be combined. The five paragraphs only provide the

Examiner's conclusions without any rationale reasoning. This fails to meet the standard provided by the Supreme Court in KSR.

CONCLUSION

Appellants respectfully submit that the Examiner has failed to show the present claims are obvious in view of Mooty et al. and Maeda et al.

Accordingly, reversal of the final rejection of Claims 23-38 and allowance of these claims is respectfully requested.

Respectfully submitted,
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